

subsequent analysis “[e]very order processed by BellSouth for both its retail units and its CLEC customers.” *Id.* ¶ 14. Third, BellSouth states that it plans to allow CLECs to directly access the data warehouse to perform their own analyses. *Id.* ¶ 15. BellSouth is to be commended for committing itself to such a system for gathering, storing, and providing access to performance data. BellSouth’s approach is clearly a desirable way to proceed, and we strongly support these commitments.

Notwithstanding this desirable architecture, as discussed in Appendix A and the Friduss SC Aff., BellSouth has failed to “provide[] sufficient performance measures to make a determination of parity or adequacy in the provision of resale or UNE products and services to CLECs.” Friduss SC Aff. ¶ 78.⁶² Most significantly, BellSouth is not providing actual installation intervals, instead relying on the “percentage of due dates missed.” Yet the type of measurement upon which BellSouth relies is not sufficient to demonstrate parity: if BellSouth were to miss 10% of scheduled due dates for both BellSouth retail operations and CLEC customers but missed the scheduled date by an average of one day for its own customers and an average of seven days for CLEC customers, BellSouth’s measurement would be equal and yet would conceal a significant lack of parity. As the Department and the Commission have previously concluded, “[p]roviding resale services in substantially the same time as analogous retail services is probably

⁶² If a BOC can establish that an effective substitute can serve the same purpose as the measures outlined here, the Department, of course, would be willing to consider the use of a substitute measure.

the most fundamental parity requirement in Section 251.”⁶³

In addition, BellSouth has no performance measurements for pre-ordering functions; few measurements for ordering functions; and no measurements for billing timeliness, accuracy and completeness. BellSouth is also missing numerous significant measurements involving service order quality, operator services, directory assistance, and 911 functions. Also, while BellSouth has committed to measuring firm order confirmation cycle time and reject cycle time, the development of these measurements is incomplete and thus results are not yet available. Collectively, these deficiencies prevent any conclusion that adequate, nondiscriminatory performance by BellSouth can be assured now or in the future.

Given BellSouth's lack of performance measures in a number of crucial areas, we also are unable to determine whether BellSouth has established performance standards that are enforceable as to these areas, as well as a track record, or benchmark, of wholesale performance. As is true with our analysis of OSS generally, our insistence on performance benchmarks does not require any particular level of use in South Carolina. Appropriate benchmarks may be established through commercial performance elsewhere in the BellSouth region. In the event that a BOC is not able to set a benchmark through actual use -- though we doubt that any region will not have some actual competitive entry -- the Department would consider other means of ensuring adequate performance, including enforceable performance standards and other means of demonstrating wholesale capability -- i.e., carrier-to-carrier testing, independent auditing, or internal testing. In

⁶³ Appendix A to DOJ Michigan Evaluation at A-12, quoted with approval in Michigan Order ¶ 167.

this case, however, BellSouth has not yet instituted the necessary performance measures, adopted enforceable performance standards, or demonstrated a satisfactory performance benchmark (through actual use or otherwise). Thus, given our inability to conclude that the necessary protections against backsliding are in place, we cannot conclude that the market has been fully and irreversibly opened to competition.

C. BellSouth's "Public Interest" Arguments Do Not Justify Approval of This Application

BellSouth erroneously contends that the benefits of allowing its entry now into the interLATA market in South Carolina warrant approval of this application under the "public interest" standard. BellSouth and its economic experts significantly overvalue the benefits of the BOC's long distance entry now, and undervalue the benefits to be gained from opening BellSouth's local markets, as explained in the Supplemental Affidavit of Marius Schwartz.

We agree that there could be competitive benefits from BOC entry into long distance markets, but the estimates of the size of those benefits provided by BellSouth and some of its economic experts, as well as experts retained by the BOCs in previous section 271 entry applications, appear on closer analysis to rest on unconvincing analytical and empirical assumptions. Schwartz Supp. Aff. ¶¶ 60-84. The economic incentives of the BOCs to cut prices substantially on entering interLATA markets are considerably weaker than the BOCs' experts claim. *Id.* ¶¶ 63-76. Long-distance markets already are significantly more competitive than local markets. Particularly, higher-volume residential and business customers benefit from considerable rivalry. *Id.* ¶¶ 18, 79, 84. The BOC experts that have estimated large price reductions from BOC

interLATA entry, based on experiences with SNET and GTE, have exaggerated the benefits realized by consumers from interLATA competition by those ILECs, by failing to take into account the best available rates from the interexchange carriers already in the market and focusing primarily on undiscounted AT&T rates, and the less favorable of the rate plans AT&T offers. Id. ¶¶ 80-83. This does not mean that consumers have realized no benefits from entry by ILECs such as SNET, but the BOCs' experts have not provided an analysis that would adequately support the large benefits they project from BOC entry.

Still more important, BellSouth and its economic experts, as well as experts retained by BOCs in previous entry applications, have failed to give adequate consideration to the more substantial benefits to be gained from requiring that the BOC's local markets be opened before allowing interLATA entry. Their analyses have simply assumed that the requirements of section 271 would be satisfied, or addressed the benefits of local competition in a cursory manner that undervalues their importance. The Department's analysis and that of Dr. Schwartz, in contrast, give full consideration to competitive effects in both the interLATA and the local markets. Because the local markets are both much larger than interLATA markets and still largely monopolistic, the benefits from opening the BOCs' local markets to competition prior to allowing BOC interLATA entry are likely to substantially exceed the benefits to be gained from more rapid BOC participation in long distance markets. Id. ¶¶ 14-25. Ensuring BOC cooperation requires conditioning BOC long distance market entry on the Department's standard of local markets being fully and irreversibly open. Experiences with regulating other complex new access

arrangements (e.g., interLATA toll, intraLATA toll, and open network architecture) indicates that opening local markets would take much longer without this cooperation. And thus the Department's entry standard, far from delaying competition, promotes it, more than would dependence on post-interLATA entry enforcement to compel the BOCs to open their local markets. Id. ¶¶ 35-59.

Finally, the Department's analysis recognizes, as the analyses by the BOCs' experts do not, that authorization of BOC interLATA entry will not promote local entry if substantial barriers to local entry remain in place. BellSouth and its experts focus only on the incentives of interexchange carriers and other providers to enter the local markets. The Department does not endorse that aspect of BellSouth's analysis, which fails to take into account important differences between various types of entrants. Id. ¶ 29. But, more significantly, BellSouth and the BOCs' experts fail to appreciate that regardless of the incentives a provider may have to enter local markets, if it does not have an adequate opportunity to enter, then entry will not occur. Id. ¶¶ 30-34. Under the 1996 Act, for that opportunity to exist, the BOC must be presently willing and able to provide at cost-based rates what competitors require for entry at various scales of operation, using interconnected separate facilities, unbundled elements and resale. BellSouth has not shown that this opportunity now exists in South Carolina, and so its interLATA entry would not be in the public interest.

IV. Conclusion

BellSouth has not satisfied the requirements of the competitive checklist, and has not taken all measures needed to ensure that local markets in South Carolina are fully and irreversibly open to competition. For these reasons, BellSouth's application for in-region interLATA entry in South Carolina under section 271 of the Telecommunications Act should be denied.

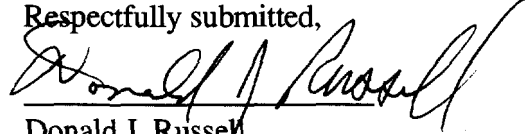
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APPENDIX A

Wholesale Support Processes and Performance Measures

In this Appendix, we examine BellSouth's wholesale support processes—the automated and manual processes required to make resale services and unbundled elements, among other items, meaningfully available to competitors—and performance measures under the principles set forth in the Commission's decision on Ameritech's section 271 Michigan application; the Department's Evaluation regarding SBC's section 271 Oklahoma application, filed on May 16, 1997; and the Department's Evaluation regarding Ameritech's section 271 Michigan application, filed on June 25, 1997.¹

I. Wholesale Support Processes Overview

In evaluating BOC applications under section 271, the Department considers whether a BOC has made resale services and unbundled elements practicably available by providing them via wholesale support processes, including the critical access to OSS functions that provide needed functionality and are demonstrated to operate in a reliable, nondiscriminatory manner at reasonably foreseeable volumes, to ensure that entrants have a meaningful opportunity to compete.² As the Commission has stated, "we seek to ensure that a new entrant's decision to enter the local exchange

¹ See generally *Michigan Order* ¶¶ 128-221; DOJ Oklahoma Evaluation at 26-30, App. A, Ex. D (Affidavit of Michael J. Friduss); DOJ Michigan Evaluation at 21-24, 38-40, App. A. Comments on the current application are cited herein by party name, *e.g.*, "Sprint Comments"; affidavits, declarations, and such are cited by party name and affiant name, *e.g.*, "AT&T Bradbury Aff."

² DOJ Oklahoma Evaluation at 68-71.

market in a particular state is based on the new entrant's business considerations, rather than the availability or unavailability of particular OSS functions." *Michigan Order* ¶ 133.

A. FCC Standard³

As explained in the Michigan Order, the Commission will first consider "whether the BOC has deployed the necessary systems and personnel to provide sufficient access to each of the necessary OSS functions and whether the BOC is adequately assisting competing carriers to understand how to implement and use all of the OSS functions available to them." *Michigan Order* ¶ 136.⁴ As to the *functionality* of those systems, the Commission determined that "[f]or those functions that the BOC itself accesses electronically, the BOC must provide equivalent electronic access for competing carriers" and that "the BOC must ensure that its operations support systems are designed to accommodate both current demand and projected demand of competing carriers for access to OSS functions." *Id.* ¶ 137. As to the *support* of those systems, the Commission made particularly detailed determinations:

A BOC . . . is obligated to provide competing carriers with the specifications necessary to instruct competing carriers on how to modify or design their systems in a manner that will enable them to communicate with the BOC's legacy systems and any interfaces utilized by the BOC for such access. The BOC must provide competing carriers with all of the information necessary to format and process their electronic requests so that these requests flow through the interfaces, the transmission links, and into the legacy systems as quickly and efficiently as possible. In addition, the BOC must disclose to competing

³ For purposes of assessing checklist compliance and the openness of a BOC's local market under our competitive standard, the Department will employ the inquiry adopted by the Commission regarding OSS, as it offers the best means for ensuring that the necessary functions are available and will remain available when called upon in greater volumes.

⁴ See also DOJ Oklahoma Evaluation, App. A at 69 ("The BOC must build its part of an interface and provide CLECs with information and cooperation sufficient to allow the CLECs to construct their part of the interface to the BOC.")

carriers any internal “business rules,” including information concerning the ordering codes [including universal service ordering codes (“USOCs”) and field identifiers (“FIDs”)] that a BOC uses that competing carriers need to place orders through the system efficiently.

Michigan Order ¶ 137 (footnotes omitted).

Second, the Commission will consider “whether the OSS functions that the BOC has deployed are operationally ready, as a practical matter.” *Michigan Order* ¶ 136. Here, “the Commission will examine operational evidence to determine whether the OSS functions provided by the BOC to competing carriers are actually handling current demand and will be able to handle *reasonably foreseeable demand volumes*.” *Id.* ¶ 138 (emphasis added). The Commission has agreed that the “most probative evidence” of operational readiness is actual commercial usage and that carrier-to-carrier testing, independent third-party testing, and internal testing, while they can provide valuable evidence, “are less reliable indicators of actual performance than commercial usage.” *Id.*

The Commission reiterated its previous determinations regarding both the parity and “meaningful opportunity to compete” standards. *See, e.g., id.* ¶ 130. Regarding the parity standard, the Commission clearly stated that parity means equality and that this is to be applied broadly:

For those OSS functions provided to competing carriers that are analogous to OSS functions that a BOC provides to itself in connection with retail service offerings, the BOC must provide access to competing carriers that is equal to the level of access that the BOC provides to itself, its customers or its affiliates, in terms of quality, accuracy and timeliness. We conclude that equivalent access, as required by the Act and our rules, must be construed broadly to include comparisons of analogous functions between competing carriers and the BOC, even if the actual mechanism used to perform the function is different for competing carriers than for the BOC’s retail operations.

Id. ¶ 139. The Commission specifically found that this standard of equivalent access applies to the OSS functions associated with pre-ordering, ordering, and provisioning for resale services; repair and

maintenance for resale services; and repair and maintenance for UNEs; and measuring daily customer usage for billing purposes. *Id.* ¶ 140.

B. Application

In applying these standards the Commission determined that BOC OSSs must be judged on an end-to-end basis, concluding that “it is necessary to consider all of the automated and manual processes a BOC has undertaken to provide access to OSS functions,” including the point of interface, or gateway, between CLEC and BOC systems; all BOC internal systems; and both the electronic and manual links between the gateway and legacy systems. *Id.* ¶ 134. The Commission explicitly rejected arguments that the duty to provide non-discriminatory access does not extend beyond the interface component. *Id.* ¶ 135.

Satisfaction of these requirements will most often entail, first, automation of many of the interfaces between a BOC and its competitors through which information is exchanged. Application-to-application interfaces are particularly helpful because they allow competing carriers to build their own software for processing transactions with a BOC.⁵ In instances in which application-to-application interfaces might be too expensive for smaller carriers who cannot afford such software

⁵ Indeed, many of the references to automated interfaces in the Department’s prior evaluations and the Commission’s prior decisions clearly contemplate application-to-application interfaces. For example, the Department has stated that “[t]he BOC must build its part of an interface and provide CLECs with information and cooperation sufficient to allow the CLECs to *construct their part of the interface* to the BOC.” DOJ Oklahoma Evaluation, App. A at 69 (emphasis added). Unless a BOC is providing an application-to-application interface, there is no CLEC-side of the interface that needs to be constructed.

Similarly, the Commission has stated, “A BOC . . . is obligated to provide competing carriers with the specifications necessary to instruct competing carriers on *how to modify or design their systems* in a manner that will enable them to communicate with the BOC’s legacy systems and any interfaces utilized by the BOC for such access.” *Michigan Order* ¶ 137 (emphasis added). A defined application-to-application interface is the most efficient method for CLEC systems to communicate with BOC systems.

development, terminal-type, human-to-machine interfaces may be appropriate. SBC, for example, is developing multiple interfaces for both small and large carriers to support almost every automated wholesale support function.⁶

In the absence of application-to-application interfaces, it is part of a BOC's burden to show that—notwithstanding the resulting disparities between BOC and CLEC operations and the significant disadvantages imposed on CLECs—it is “provid[ing] sufficient access to each of the necessary OSS functions,” *Michigan Order* ¶ 136, and where the functions provided to CLECs are analogous to those provided to itself, to demonstrate that CLEC access to these functions “is equal to the level of access that the BOC provides to itself, its customers or its affiliates, in terms of quality, accuracy and timeliness,” *id.* ¶ 139.

Second, BOCs will need to automate, to varying degrees, the interaction of these interfaces with their internal OSSs. Such automation often will be critical to the meaningful availability of resale services and unbundled elements. The Commission's nondiscrimination requirement obligates BOCs to provide automated interaction between interfaces and their own OSSs where such access is automated analogously for the BOCs' retail operations, or where the lack of such automation would cause significant barriers to entry, denying competitors a meaningful opportunity to compete. As discussed above, the systems must be judged on an end-to-end basis.

⁶ See DOJ Oklahoma Evaluation at 74 (“SBC claims to offer multiple interfaces through which CLECs eventually will be able to perform most functions, including resale ordering functions. This approach, when operational, may fulfill the needs of both large and small competitors and comply with the Commission's complementary ‘nondiscrimination’ and ‘meaningful opportunity’ requirements.”).

In addition to automation generally,⁷ adherence to industry standards for interfaces between carriers in particular will generate further economic benefits both for both CLECs and incumbents. Committees of the Alliance for Telecommunications Industry Solutions (ATIS) are continuing to develop and enhance standards for ordering resale services and some unbundled elements via electronic data interchange (EDI). The Department understands that standards for pre-ordering functions are also expected soon. The Department will ordinarily expect BOCs to adhere to such standards following a reasonable period of development in cooperation with competing carriers wishing to use the standardized interface.⁸

Finally, proper performance measures with which to compare BOC retail and wholesale performance, and to measure exclusively wholesale performance, are a necessary prerequisite to demonstrating compliance with the Commission's "nondiscrimination" and "meaningful opportunity to compete standards." Without comprehensive measures as a means of tracking performance and a track record of performance under those measures, it will be difficult—if not impossible—for

⁷ We note that our focus on automation flows from our assessment that manual processes are likely to result in significantly greater problems when called upon to handle a competitively significant number of orders. As parties have noted, the experience in California, where Pacific Bell's systems essentially broke down, underscores this point. See *MCI v. Pacific Bell*, Cal. PUC No. 96-12-026 (Sept. 24, 1997), at 27, 29 (finding that MCI ceased marketing after Pacific Bell built up backlogs of 4,000 to 5,000 orders and that, by Pacific Bell's own admission, its systems did not offer their competitors resold services at parity). We do not suggest that we would never approve of some manual intervention, see, e.g., DOJ Oklahoma Evaluation, App. A at 70 n. 90, but a BOC would need to demonstrate—to a greater degree of proof—that such systems would remain functional when called upon to perform at greater levels of demand. Of course, to the extent that the industry standards bodies call for automated interfaces, we will view this judgment as further counseling in favor of such systems.

⁸ ATIS noted at a recent FCC Forum on OSS access that some ATIS committee standards are usually stable enough at initial—as opposed to final—closure to allow carriers to begin interface development at such time. ATIS Presentation at the FCC Forum on Operations Support Systems, May 28, 1997. This indicates that in some instances BOCs should be initiating development efforts even prior to ATIS final closure in accordance with the needs of competing carriers.

competitors and regulators to detect backsliding of performance after in-region interLATA entry is authorized.

II. BellSouth's Wholesale Support Processes

The Department concludes that BellSouth has not demonstrated that the access to OSS functions that it provides to competing carriers is equivalent to the access it provides itself. As explained below, the Department concludes that there are significant problems with BellSouth's system, and because of these problems, the Department has not attempted to address each issue raised in the comments on BellSouth's application or, more generally, provide detailed comments regarding all aspects of BellSouth's wholesale support processes.⁹

BellSouth's processes are operated on a regional, rather than a state-by-state basis, and thus our analysis is not limited to South Carolina activities. Satisfactory performance in other states will be regarded as evidence that the same systems will work satisfactorily in South Carolina, unless there are specific reasons to conclude otherwise. Conversely, if a problem exists with BellSouth's processes in another state, we assume that the problem exists in South Carolina unless shown otherwise.

A. State Commission OSS Review

BellSouth's application places great emphasis on the conclusion of the South Carolina Public Service Commission (SCPSC) that BellSouth's SGAT complies with the checklist and argues that the SCPSC determinations are entitled to great weight. BellSouth Brief at 18. The Department has two observations with regard to state commission review of BellSouth's systems.

⁹ The Department emphasizes that it has not affirmatively concluded that the processes not addressed herein are in compliance with the requirements of section 271.

First, the SCPSC issued its decision on July 31, 1997, prior to the Commission's decision on Ameritech's 271 application for Michigan. Accordingly, the SCPSC did not have the benefit of the Commission's Michigan decision, including the important discussion of OSS standards discussed above, when it reviewed BellSouth's SGAT and reached its decision. It is not clear how the SCPSC interpreted the standards it said it was applying or how those standards compare, in actual application, to the standards described in the Michigan Order. For example, the SCPSC found that BellSouth's systems are "operational," *e.g.*, SCPSC Order at 34, 37; the context indicates that its finding was based on the fact that the systems are presently in use. It did not, as the subsequent Michigan order describes, look beyond whether the systems are in use to "whether the OSS functions that the BOC has deployed are *operationally ready*, as a practical matter," *Michigan Order* ¶ 136 (emphasis added), which includes a determination of "whether the OSS functions provided by the BOC . . . will be able to handle *reasonably foreseeable demand volumes*," *id.* ¶ 138 (emphasis added). Moreover, there is evidence in the present record regarding events that have occurred since the SCPSC proceedings.¹⁰ The Commission should take these factors into account when considering the SCPSC evaluation.

Second, the Department notes that BellSouth's processes are operated on a regional, rather than a state-by-state basis, and that not all state commissions in BellSouth's region are equally satisfied with BellSouth's systems and the access to those systems that BellSouth is presently providing to CLECs. For example, the Alabama Public Service Commission recently issued an order

¹⁰ For example, AT&T describes problems experienced in August and September 1997, since the SCPSC proceeding, which have impeded, and in some instances prevented, its representatives from using LENS. *See* AT&T Bradbury Aff. ¶¶ 258-61.

delaying its decision on BellSouth's SGAT stating that "it . . . appears that BellSouth's petition is not yet timely."¹¹ Of the two major areas of concern described, one relates to OSS. The Commission stated, "It appears to us that BellSouth's OSS interfaces must be further revised to provide nondiscriminatory access to BellSouth's OSS systems as required by § 251(c)(3) of the 96 Act. We have concerns that such nondiscriminatory access is not currently being provided." *Id.* The order requires a live OSS demonstration for the state commission, its staff, and the intervenors as "the most expeditious and effective method of ensuring that *those OSS shortcomings are rectified* in a timely manner." *Id.* (emphasis added).¹² Moreover, the staff of the Florida Public Service Commission has recommended that the Florida commission determine that BellSouth's SGAT does not comply with section 252(f) of the 1996 Act. The staff concluded that there are numerous significant problems with BellSouth's OSS interfaces and systems that preclude a finding that they meet the requirements of the 1996 Act.¹³ Finally, it is reported that the Georgia PSC recently expressed continuing concerns about Bell South's OSSs and lack of performance standards.¹⁴

¹¹ Alabama Order at 7. The order is attached to this evaluation as Exhibit 5.

¹² The Department notes that CLECs have often told the Department that OSS deficiencies have been addressed only after they have been raised with state regulatory authorities, often in demonstrations such as these.

¹³ See FPSC Staff Recommendation. Relevant excerpts from the recommendation are attached to this evaluation as Exhibit 6.

¹⁴ According to the *Communications Daily* article, the Georgia PSC "recognized that 'improvements have been made' in OSS, but said 'continued progress is imperative' and observed that an "[a]bnormally high number of rejections of service orders placed by new entrants 'can chill and even inhibit competition.'" The article quotes PSC Chairman Stanley Wise as saying that the PSC will re-visit these issues when BellSouth files a 271 application for Georgia "and judge them 'with a much broader and higher standard.'" "Telephony," *Communications Daily*, Oct. 30, 1997.

B. Functionality & Support

The comments describe problems that CLECs have faced with each of the OSS functions: pre-ordering, ordering, provisioning, maintenance and repair, and billing. The Department's analysis focuses on BellSouth's support for pre-ordering and for ordering and provisioning and concludes that BellSouth has not satisfied its burden of demonstrating non-discriminatory access to these functions.

1. *Pre-Ordering*

On the basis of the evidence currently in the record, BellSouth has not satisfied its burden of demonstrating the successful operation of its pre-ordering support processes. As its pre-ordering interface, BellSouth has developed a Web-based application known as the Local Exchange Navigation System (LENS), which provides a terminal interface, albeit a graphical one, to the user. Among the deficiencies described in the comments are the lack of an application-to-application interface, discriminatory functionality, and inadequate capacity. We discuss the testing and capacity issues in a later section on Operational Readiness.

a. *Application-to-Application Interfaces*

BellSouth describes its ongoing efforts to develop, pursuant to an agreement with AT&T, a customized application-to-application pre-ordering interface called "EC-LITE,"¹⁵ but it is undisputed that EC-LITE is not yet available; neither has BellSouth provided an adequate substitute.¹⁶ An

¹⁵ EC-LITE is not based on industry standards. The industry is working on standards for application-to-application interfaces for pre-ordering functions, but such standards do not yet exist. We commend, in this regard, Bell South's commitment to adhere to any future industry standards addressing OSS standards.

¹⁶ BellSouth asserts that there are two mechanisms by which CLEC systems developers could use the LENS system to develop an application-to-application pre-ordering interface: using Common Gateway Interface (CGI) scripts and parsing the HTML character stream used for formatting and displaying LENS screens. Since the use of either HTML parsing or CGI scripts requires a fully documented, stable interface against which the

(continued...)

interface that will be made available in the future, especially one not yet "stress tested" in a convincing manner, cannot satisfy a BOC's statutory obligation under the checklist. Hence we conclude that BellSouth cannot presently rely upon the EC-LITE interface to demonstrate the adequacy of its pre-ordering interfaces. Accordingly, the Department concludes that BellSouth presently provides no application-to-application interface for accessing pre-ordering functions.

The Department has previously contrasted terminal-type, human-to-machine interfaces with application-to-application interfaces and explained the competitive significance of providing application-to-application interfaces to CLECs who have developed and maintain their own internal OSSs. Among the problems such CLECs face in the absence of application-to-application interfaces is a double-entry problem:

¹⁶(...continued)

CLEC can develop its own system, given the current state of the LENS interface and documentation, BellSouth has not shown that either of these approaches are adequate.

As to documentation, the Stacy OSS affidavit states that BellSouth has a CGI specification that it has provided to requesting CLECs, Stacy OSS Aff. ¶ 44, but there is no representation made regarding specifications for the HTML character streams or regarding the finality or practical useability of any such specifications. AT&T presents a more detailed account regarding the specifications in its comments and in the Bradbury affidavit. It describes continual contacts with BellSouth on these issues since mid-1996, and although it refers to some draft specifications, AT&T states that BellSouth has never provided final, useable specifications. Indeed, AT&T cites BellSouth witnesses who have testified before state commissions that firm specifications require a final LENS interface that will not exist until at least 1998. *See generally* AT&T Bradbury Aff. ¶¶ 32-45. Similarly, MCI states that notwithstanding repeated requests as recent as September 5, 1997, BellSouth still has not provided up-to-date, useable specifications. MCI King Decl. ¶ 48. MCI also explains that it initially attempted to develop software to parse the HTML character stream, a process MCI describes as "screen scraping," but that this is an expensive process that produces an inferior result and is therefore discriminatory. *Id.* ¶¶ 49-50, 59.

Although BellSouth may well have begun to make these interfaces available, the fact that MCI has yet to employ successfully either interface strongly suggests that Bell South has not provided adequate specifications so as to enable MCI to begin testing. Even to the extent that any delays in beginning testing CGI correspond simply to the time that it has taken MCI to understand the interface --that is, assuming that the interface is fully functional -- we would still not view CGI as meeting Bell South's OSS pre-ordering obligation under the checklist because CGI has not undergone any significant "stress testing"--even of the carrier-to-carrier variety.

[U]nlike [a BOC's] retail operations, a competing carrier with its own separate OSSs is forced to manually enter information twice—once into the [BOC] interface and a second time into its own OSSs. For high volumes of orders, such double entry would place a competitor at a significant disadvantage by introducing additional costs, delays, and significant human error.

...

Application-to-application interfaces allow a competitor to design its own systems based on standardized sets of inter-carrier transactions. Leveraging these standard interfaces, a competitor may then present its customer service representatives with its own set of customized screens and information, and automatically populate its own databases with information at the same time it interacts with a BOC's systems.

DOJ Oklahoma Evaluation at 75-76. Thus, as to this double-entry issue alone,¹⁷ the lack of application-to-application interfaces raises issues both as to parity with a BOC's internal systems and as to whether the access to the BOC's systems provides CLECs a meaningful opportunity to compete. In the absence of application-to-application interfaces, it is part of a BOC's burden to show that—notwithstanding the resulting disparities between BOC and CLEC operations and the significant disadvantages imposed on CLECs—it is “provid[ing] sufficient access to each of the necessary OSS functions,” *Michigan Order* ¶ 136, and where the functions provided to CLECs are analogous to those provided to itself, as pre-ordering and ordering functions for resold services are, to demonstrate that CLEC access to these functions “is equal to the level of access that the BOC provides to itself, its customers or its affiliates, in terms of quality, accuracy and timeliness,” *id.* ¶ 139.

On the present record, Bell South has not justified its lack of a pre-ordering application-to-application interface. Without such an interface, a CLEC with its own internal OSSs cannot integrate

¹⁷ In addition, as discussed below, without application-to-application interfaces, CLECs cannot deploy integrated systems, such as BOCs do, for ordering and pre-ordering. Finally, CLECs cannot deploy single systems to access multiple BOCs' OSSs. When they are able to deploy their own systems, “CLECs need only train their representatives to use this one customized system to interact with all BOCs, regardless of the interface provided, rather than having to incur the cost of training them on many different systems depending on the BOC.” DOJ Oklahoma Evaluation at 76.

pre-ordering functions into its OSSs, and thus its users must manually transfer data between the LENS interface and its internal OSSs. BellSouth responds that it is still providing the necessary functionality because CLECs can simply cut-and-paste information between LENS and other computer applications and thus need not re-key the data. Stacy OSS Aff. ¶ 43. We find this explanation inadequate. First, this argument ignores that basic fact that, just like re-keying data, cutting-and-pasting data between fields of different applications is a manual, error-prone process. Second, unless the corresponding fields of the two applications require the same, identically-formatted data, this approach will require the CLEC operator to take additional manual steps to reformat the data,¹⁸ which would create additional opportunities for errors.¹⁹ Accordingly, a cutting-and-pasting approach clearly would be unmanageable for a CLEC seeking to enter the market on any significant scale. Thus, BellSouth's pre-ordering interfaces do not provide the necessary OSS functionality as called for by the statutory standard.

BellSouth's failure to develop appropriate interfaces at this juncture prevents CLECs from achieving parity with BellSouth's systems and thus precludes full and fair competition. The essential reason that the Department regards application-to-application pre-ordering interfaces so highly is that such interfaces will, combined with application-to-application ordering interfaces, enable CLECs to develop their own systems for integrating the pre-ordering and ordering functions. Indeed, even Bell

¹⁸ For example, if one system were to combine street, city, state, and ZIP code together and the other required them to be separate fields, the user would have to manually combine or split apart the data when moving from one application to the other.

¹⁹ Problems with the introduction of errors is compounded when CLECs lack the business rules applied by BellSouth's systems and thus cannot pre-validate their orders and catch such errors before transmitted. That problem is made yet worse when BellSouth does not send rejection notices back electronically but rather uses a slower, hard-to-manage fax-based process. Thus, the total situation can be much worse than any individual problem might suggest.

South acknowledges that “there is no strict delineation between pre-ordering and ordering, as many pre-ordering activities generally occur in the context of negotiating a service order.” Stacy OSS Aff. ¶ 5. Thus, not surprisingly, BellSouth provides its retail representatives with integrated systems that seamlessly support both pre-ordering and ordering functions. While acknowledging that “CLECs have complained that BellSouth’s systems do not provide integration of the pre-ordering and ordering functions,” BellSouth responds that except when the CLEC uses LENS for both pre-ordering and ordering²⁰ such integration is the responsibility of the CLEC. *Id.* ¶ 61. While CLECs are responsible for this integration, BellSouth’s explanation fails to justify its position because, as explained above, BellSouth’s systems that are necessary to accomplish this task have yet to be fully specified, implemented, and tested. Thus, what BellSouth’s response omits is that CLECs presently are *unable* to construct integrated systems even if they choose, as the lack of application-to-application interfaces for pre-ordering—essential components for that task—prevents them from being able to integrate these functions.

b. *Lack of Parity in Particular Functions*

In addition to the problems arising from the lack of an application-to-application interface, BellSouth’s pre-ordering interface fails to meet the necessary standards because LENS does not offer parity with BellSouth’s retail operation. While the comments cite numerous deficiencies, we here focus on two: access to telephone numbers and service installation dates. When a customer calls to

²⁰ While BellSouth still provides ordering capability through LENS, BellSouth states that “[t]he LENS ordering interface is limited to a subset of the order types and activity types provided by the EDI interface,” and “BellSouth recommends the industry-standard EDI interface for local exchange ordering.” Stacy OSS Aff. ¶ 56; *see also id.* ¶ 46. This suggests that the use of LENS for both pre-ordering and ordering will be a less common situation.

negotiate service, two pieces of information that the customer will want to determine right away are when service will be available and what the new telephone number will be. Accordingly, the failure to provide this information on a non-discriminatory basis is quite significant from an end user's perspective. We also address address validation.

(1) Access to Telephone Numbers

BellSouth states that it restricts the number of telephone numbers that a CLEC can reserve in a central office at any one time to 100 numbers or 5% of the numbers available in that office, whichever is less. Stacy OSS Aff. ¶ 25. BellSouth does not apply the same restrictions to itself, the largest user of telephone numbers. Beyond this obvious lack of parity, the restriction may deprive CLECs a meaningful opportunity to compete. With such limitations in place, it appears that it could be quite difficult, if not infeasible, for a CLEC to reserve numbers and place orders in competitively significant numbers.²¹ In light of these restrictions, it is not clear that it would be feasible for a CLEC to conduct a heavy telemarketing campaign, for example, in a focused area.

AT&T indicates that there are two other related policies that negatively affect CLECs that place orders using EDI—the method BellSouth recommends—and not LENS. First, a telephone number viewed using LENS inquiry mode is marked “reserved” and will count against the limit for twenty-four hours. Second, other than the expiration of the twenty-four-hour period, numbers are taken off the “reserved” list only when they are “selected” in conjunction with an order. Telephone numbers for orders submitted via EDI are not switched to “selected” status until the EDI order

²¹ For example, AT&T states that these limits place significant burdens on its ability to handle large business orders involving numerous lines or to place high volumes of orders on a daily basis in particular areas. AT&T Bradbury Aff. ¶¶ 62, 65.

reaches BellSouth's Service Order Control System (SOCS) system,²² which processes the order. AT&T Bradbury Aff. ¶¶ 66-67. The problem is compounded for CLECs that submit orders via EDI, as BellSouth recommends, Stacy OSS Aff. ¶¶ 46, 56. Between the submission of an order and its processing by SOCS, numbers that have been selected are still marked "reserved" and thus are counted against the CLEC's limit. This "float" period results in the count of reserved numbers remaining artificially high. The longer the "float," the worse the effect.²³

In sum, it appears that a CLEC's ability to provide competing services could be limited by BellSouth's policies rather than by the dictates of the marketplace. Accordingly, BellSouth's policies are contrary to its obligation to provide access to OSS functions on a non-discriminatory basis. We are aware that this issue stems, in part, from the fact that BellSouth is functioning as the interim number administrator, but until a permanent—and neutral—administrator takes over, this issue compromises the nondiscrimination principle set forth in the Act and at the heart of our competitive standard.

²² In discussions with the Department, BellSouth has stated that same status is applied to telephone numbers reserved for both BellSouth and CLEC orders and that this condition exists until the order reaches SOCS (and associated downstream systems). However, it appears that this will have a greater affect on CLEC orders submitted via EDI because of delays in processing EDI orders, including the manual handling of orders that results from lack of flow through and from ordering errors, many of which it appears could be prevented if CLECs had full knowledge of BellSouth's business rules so that they could pre-validate their EDI orders.

²³ The "float" period is extended, and thus the effect of the limitation is compounded, first by BellSouth's decision not to process orders at its gateway immediately upon the receipt of each order but only at thirty-minute intervals. Stacy OSS Aff. ¶ 62; AT&T Bradbury Aff. ¶¶ 115-17.

Errors in the order will typically cause the order to drop out before reaching SOCS, and thus further extending the "float." BellSouth's failure to document and provide to CLECs its internal business rules contributes to the error rate, and its manual handling of rejection notices delay the CLECs ability to correct these errors. Thus, these other factors compound the problem.

(2) Access to Installation Dates

When LENS is used in inquiry mode—and again it should be noted that BellSouth does not recommend the use of LENS for ordering, Stacy OSS Aff. ¶¶ 46, 56, so inquiry mode can be expected to be the typical mode—LENS places numerous limitations on the user. One of many is that LENS will not provide calculated due dates for service installation.

When BellSouth's retail representatives place orders, BellSouth's Direct Order Entry Support Applications Program ("DSAP") analyzes the order, work load, and availability of facilities and then, applying various rules, calculates a due date. The representative can discuss alternative dates with the customer, if necessary, and then reserve a satisfactory due date and schedule and appointment for the customer. *See* AT&T Bradbury Aff. ¶ 50; *see also* Stacy OSS Aff. ¶ 33; *id.* Ex. WNS-52 § 2-27.

CLECs using LENS in inquiry mode do not have equivalent access to DSAP. Instead of access to DSAP's ability to calculate dates, CLECs get only a calendar showing open dates, Stacy OSS Aff. Ex. WNS-52 § 2-28, along with tables of projected service intervals, which correspond to standard intervals for the applicable work center. Moreover, to the extent that the standard intervals assume that a premises visit is required to perform the installation or that the CLEC is unable to determine whether that is so, a correspondingly longer date will result even though premises visits are often not required.²⁴ These estimated dates are not firm at this point, as BellSouth acknowledges,

²⁴ BellSouth states that it was to add Quickservice functionality to LENS in October 1997 that would help determine whether a dispatch would be required. Stacy OSS Aff. ¶47. From this brief reference, one cannot determine whether this change would address the limitations that AT&T describes. One issue is whether this functionality will be available in inquiry mode: if implemented only in firm-order mode, it would not help CLECs using inquiry mode. Moreover, even assuming that this functionality was implemented on schedule, it is not known whether it works properly and is operationally ready.

In discussions with the Department, BellSouth has stated that, through Quickservice and otherwise, it
(continued...)

stating that "the LENS preordering query will provide information to discuss *probable installation intervals*," Stacy OSS Aff. Ex. WNS-52 § 2-28 (emphasis added). Actual due dates are assigned only after BellSouth processes the service order, and by that point, the due date originally estimated might no longer be available.²⁵ Further, the CLEC does not get the actual due date until it receives the Firm Order Confirmation ("FOC") for the order. BellSouth's commitment for providing FOCs is twenty-four hours from the time an order is placed. Thus, for the 80% of orders that BellSouth estimates will be submitted via EDI, not only will the CLECs be unable to provide their customers with firm due dates on the original telephone call, they will often be unable to provide due dates the same day.

This denies such CLECs non-discriminatory access to installation dates. *See generally* AT&T Bradbury Aff. ¶¶ 51-55; MCI King Decl. ¶¶ 70-76.

(3) Address Validation

An additional limitation when LENS is used in inquiry mode is that, when the customer has no existing service,²⁶ the LENS user must perform an address validation prior to *each* pre-ordering

²⁴(...continued)

now provides CLECs with information through which they can apply the same rules that DSAP applies in a mechanized way and thus reach the same result. Even assuming that is so, this still fails the requirement that "[f]or those functions that the BOC itself accesses electronically, the BOC must provide equivalent electronic access for competing carriers," *Michigan Order* ¶ 137, for CLECs must derive these dates manually.

²⁵ In discussions with the Department, BellSouth has stated that neither BellSouth nor CLEC orders have final, *i.e.*, guaranteed dates, prior to the order being processed through SOCS. However, it appears that this will have a greater affect on CLEC orders submitted via EDI because of delays in processing EDI orders, including the manual handling of orders that results from lack of flow through and from ordering errors, many of which it appears could be prevented if CLECs had full knowledge of BellSouth's business rules so that they could pre-validate their EDI orders.

²⁶ In discussions with the Department, BellSouth has stated that the pre-ordering functions can be accessed by both street address and telephone number. Thus, when the customer has existing telephone service, a single piece of data, the telephone number, can be entered each time instead of the longer street address, city, (continued...)

function. For example, if a CLEC user needs to reserve a telephone number and schedule an installation date, the user would have to validate the address, reserve the telephone number, and then re-validate the same address again before scheduling the installation date. Performing four pre-ordering functions for a single order would require that the same address be entered and validated four times. The system used by BellSouth retail representatives requires an address to be validated only once in the order negotiation process, not once for every pre-ordering function.

In attempting to justify this arrangement, BellSouth make several arguments. BellSouth argues that inquiry mode includes address validation since it is a necessary input to other pre-ordering functions. Stacy OSS Aff. ¶ 19. Yet BellSouth does not explain why this need for a valid address requires that the validation process be performed repeatedly during a series of sequential pre-ordering functions involving the same address. For example, some mechanism that saved the validated address from one pre-ordering function to the next (until the user indicated that a function for a new address was desired) would offer functionality like BellSouth's own systems, which validate an address once and use that validated address throughout the transaction.

BellSouth also states that this does not have a negative impact on CLECs' ability to obtain pre-ordering information and that having such an inquiry mode is not present in the BellSouth interface RNS so that the CLECs actually have "an extra benefit." Stacy OSS Aff. ¶ 19. BellSouth does not explain how a process that, for no apparent necessary reason, can nearly double the number of steps to accomplish the same result can fail to have a negative impact: obviously, even if CLECs

²⁶(...continued)

and state entries. But even then, because the same data must be re-entered to access each pre-ordering function, there is still a lack of parity.